



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

SEP 27 2004

E. Mark Braden, Esquire
Baker & Hostetler, LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 5442
Keyes 2000, Inc. and
William Leo Constantine, Treasurer

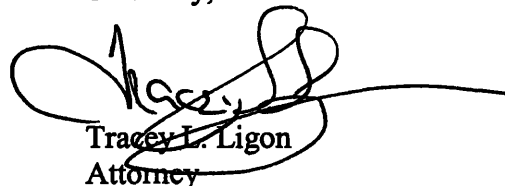
Dear Mr. Braden:

On September 23, 2004, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 432(h), 432(c) and 441a(f) and 11 C.F.R. § 110.4 (c)(3). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 60 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,



Tracey L. Ligon
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 5442
Keyes 2000, Inc. and)
William Leo Constantine, as Treasurer)
)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Keyes 2000, Inc. and William Leo Constantine, as Treasurer, ("Respondents") violated 2 U.S.C. § 432(c), 2 U.S.C. § 432(h), 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.4(c)(3).¹

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

¹ All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended (the "Act"), herein are to the Act as it read prior to the effective date of BCRA. All statements of the law in this agreement that are written in the present tense shall be construed to be in either the present or the past tense, as necessary, depending on whether the statement would be modified by the impact of BCRA or the regulations thereunder

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Keyes 2000, Inc. ("Committee") is a political committee within the meaning of 2 U.S.C. § 431(4).

2. William Leo Constantine is the treasurer of the Committee.

3. The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A).

4. The Act provides that no political committee shall knowingly accept any contribution in violation of the contributions limitations in the Act. 2 U.S.C. § 441a(f).

5. Respondents knowingly accepted excessive contributions totaling \$168,200.

6. The Committee has stale-dated checks -- checks that have not been negotiated by the payee -- totaling \$8,003. The stale-dated checks represent attempted refunds of excessive contributions. If a payee fails to negotiate a check written by a committee for the purpose of refunding an excessive contribution, the failure to negotiate the payment results in a contribution to the committee. *See* Explanation and Justification for 11 C.F.R. § 9038.6, 52 Fed. Reg. 20674 (June 3, 1987).

7. The Committee failed to remit \$8,003 to the United States Treasury related to the stale-dated checks. As a result, the Committee received \$8,003 in excessive contributions related to its stale-dated checks.

8. The Commission's regulations provide that a committee receiving an anonymous cash contribution in excess of \$50 shall promptly dispose of the amount over \$50. 11 C.F.R. § 110.4(c)(3). The amount over \$50 may be used for any lawful purpose unrelated to any Federal election, campaign, or candidate. *Id.*

9. Respondents failed to dispose of a total of \$15,013 of anonymous cash contributions that exceeded \$50.

10. The Act requires that the treasurer of a political committee keep account of all contributions, including contributions under \$50, received by the political committee. *See* 2 U.S.C. § 432(c). The Commission's implementing regulations state that "[a]n account shall be kept by any reasonable accounting procedure of all contributions received by or on behalf of the political committee." 11 C.F.R. § 102.9(a). The Commission has delineated two possible accounting methods that would satisfy the record-keeping requirement for events involving numerous cash contributions under \$50. *See* Advisory Opinion 1980-99.

A committee may keep an account of the name and address of each contributor and the date and amount of their contribution, as the law requires for contributions over \$50, *see* 2 U.S.C. § 432(c)(2), or, alternatively, a committee may "record the name of the event, the date(s) contributions were received for that event and the total amount of contributions received on each day for that event." *Id.*

11. The Respondents failed to adhere to a reasonable accounting method for contributions under \$50 as required by 2 U.S.C. § 432(c).

12. The Act provides that political committees shall not make cash disbursements in excess of \$100. 2 U.S.C. § 432(h).

13. Respondents made a total of \$104,413 of cash disbursements that exceeded \$100.

V. Respondents admit the following:

(1). Respondents knowingly accepted \$168,200 in excessive contributions, and \$8,003 in excessive contributions related to stale-dated checks, in violation of 2 U.S.C. § 441a(f).

(2). Respondents failed to dispose of a total of \$15,013 of anonymous cash contributions that exceeded \$50 in violation of 11 C.F.R. § 110.4(c)(3).

(3). The Respondents failed to adhere to an appropriate accounting method for contributions under \$50 in violation of 2 U.S.C. § 432(c).

(4). Respondents made a total of \$104,413 of cash disbursements in excess of \$100 in violation of 2 U.S.C. § 432(h).

(5). The respondent contends that these violations reflect misunderstandings of the Act or good faith errors by committee staff and volunteers.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Twenty-Three Thousand Dollars (\$23,000) pursuant to 2 U.S.C. § 437g(a)(5)(A). Respondents will remit \$95,302 to the United States Treasury.

Respondents will cease and desist from violating 2 U.S.C. § 432(c), 2 U.S.C. § 432(h), 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.4(c)(3).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than sixty (60) days from the date that this agreement becomes effective to comply with and implement the requirements contained herein and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.


FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

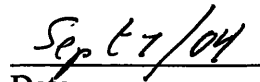
By: Rhonda J. Vosdingh
Rhonda J. Vosdingh
Associate General Counsel
for Enforcement

2/27/04
Date

FOR THE RESPONDENTS:



Mark Braden
Counsel for Keyes 2000, Inc.



Date

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